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EXAMINER
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2141	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/668,110	KRIEGSMAN ET AL.
	Examiner	Art Unit	
	Djenane M. Bayard	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 October 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-3, 5-17, 19-21 and 23-28</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-3, 5-17, 19-21, 23-28</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This is in response to amendment filed on 10/01/07 in which claims 1-3, 5-17, 19-21 and

23-28 are pending.

Response to Arguments

2.   The affidavit filed on 10/01/07 under 37 CFR 1.131 has been considered but is

ineffective to overcome the Kredo reference.

37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the

claimed subject matter. However, the showing of facts is not sufficient to show:

(A) >(actual)< reduction to practice of the invention prior to the effective date of the reference;

or

(B) conception of the invention prior to the effective date of the reference coupled with due

diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due

diligence from prior to the reference date to the filing date of the application (constructive

reduction to practice).

The evidence submitted is insufficient to establish diligence from a date prior to the date of

reduction to practice of the Kredo reference to either a constructive reduction to practice or an

actual reduction to practice. Where conception occurs prior to the date of the reference, but

reduction to practice is afterward, it is not enough merely to allege that applicant or patent

owner had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889).

Applicant must show evidence of facts establishing diligence. Under 37 CFR 1.131, the critical

period in which diligence must be shown begins just prior to the effective date of the reference or activity

and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States

patent application).

3.   Applicant's arguments filed have been fully considered but they are not persuasive.

As, per claim 1, Applicant argues that the triggering event of in Scherr is only indicative of the

passage of minutes not "indicative of the existence of an obsolete portion of web page.

However, SCherr clearly teaches wherein the cache management system could be configured to

pre-fetch web pages from the requested site each time and internal user logs on and those pages

are not already in cache storage (See col. 6, lines 5-42).

As per claim 3, Applicant argues that SCherr does not teach a script. However, Scherr

clearly teaches wherein the monitor used for cache management could response to messages

transmitted to it by a program or script (See col. 7; lines 16-19).

As per claim 5, Applicant argues that Scherr fails to teach wherein the triggering events

involve detecting the receipt of an updated portion of said web page. However, Scherr clearly

teaches wherein updates would be sent to a local site by the service provider as they occur (See

col. 11, lines 53-56).

As per claim 8, Applicant argues that Scherr fails to teach establishing communication

with an origin server and causing said particular cache server to request said update therefrom.

However, Scherr teaches wherein service providers could offer supplying the mirror files as one

of their services (See col. 11, lines 52-56).

As per claim 9, Applicant argues that Scherr fails to teach wherein the cache memory is

relative to the origin server. However, Scherr clearly teaches wherein

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-5, 8-16, 19-23 and 26-28 are rejected under 35 U.S.C. 102(e) as being

anticipated by U.S. Patent No. 6,799248 to Scherr.

a.   As per claims 1 and 19, Scherr et al teaches a method for enabling the generation of an

updated web-page for storage in one of a plurality of cache servers said method comprising:

implementing programmable rule executing on each of the plurality of cache servers (See col. 5,

lines 1-2, *cache management being installed at various sites on network)*, each programmable

rule defining a triggering event associated with its corresponding cache server (See col. 5, lines

49-65 and col. 6, lines 1-42) the occurrence of the triggering event being indicative of the

existence of an obsolete portion of said web-page stored in said corresponding cache server (See col. 5, lines 49-65 and col. 6, lines 1-42, *cache management system can be configured to use either a page cache management, data usage frequency, page usage or data usage pattern, time frequency method*) ; detecting an occurrence of a triggering event at a particular cache server selected from the plurality of cache servers; in response to the occurrence of said triggering event, causing said particular cache server to request an update of a corresponding obsolete portion; and receiving an updated portion of said web-page for storage at said particular cache server (See col. 5, lines 49-65 and col. 6, lines 1-42).

b.   As per claim 13, Scherr et al teaches a web-serving system comprising: a plurality cache servers having a corresponding cache memory and a cache manager in communication with said corresponding cache memory for controlling said content of said corresponding cache memory (See col. 5, lines 16-29), said cache manager being configured to execute a programmable script, said script being configured for detecting the occurrence of a triggering event (See page 8, paragraph [0074]), and in response to detection of said triggering event, causing said cache manager to request and update of said content said cache memory (See page col. 5, lines 49-65 and col. 6, lines 1-42).

c.   As per claims 2 and 20, Scherr et al teaches generating a web-page incorporating said updated portion therein and serving said web-page to a user (See col. 6, lines 5-42).

d.   As per claims 3 and 21, Scherr et al teaches wherein implementing said programmable

rule comprises interpreting a script containing instructions for defining a rule (See col. 3, lines

54-65).

e.   As per claims 4 and 22, Scherr et al fails to teach wherein detecting said triggering event

comprises detecting an elapsed time defined by said programmable rule (See col. 6, lines 5-23)

f.   As per claims 5 and 23, Scherr et al teaches wherein detecting said triggering event

comprises detecting the receipt of an updated portion of said web-page (See col. 3, lines 50-65).

g.   As per claims 8 and 26, Scherr et al teaches wherein causing said particular cache-server

to request an update comprises establishing communication with an origin server and causing

said particular cache server to request said update therefrom, and receiving an updated portion

comprises receiving said updated portion from said origin server (See col. 8, lines 44-47)

h.   As per claim 9, Scherr et al teaches wherein comprising a cache memory element

separate from said origin server (See col. 5)

i.   As per claim 10, Scherr et al teaches comprising a cache memory element at said origin

server (See col. 5).

j.   As per claims 11, 14 and 27, Scherr et al teaches the claimed invention as described

above. Furthermore, Scherr et al teaches wherein collecting access-data indicative of how

frequently said web-page is requested (See col. 3, lines 54-60 and col. 5, lines 49-60).

k.   As per claim 12 and 28, Scherr et al teaches the claimed invention as described above.

Furthermore, Scherr et al teaches managing the content of caches in said cache servers in

response to said access-data (See col. 3, lines 54-60 and col. 5, lines 49-60)

l.   As per claim 15, Scherr et al teaches the claimed invention as described above.

Furthermore, Scherr et al teaches wherein said usage-monitor provides said access data to said

programmable script, and said programmable script alters said content of said cache memory in

response to said access-data (See col. 5, lines 49-60).

m.   As per claim 16, Scherr et al teaches the claimed invention as described above.

Furthermore, Scherr et al teaches a communication path between said programmable script and

an administrator process, said communication path enabling said programmable script to receive

instructions from said administrator process (See col. 5, lines 62-63).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 6 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,799248 to Scherr et al in view of U.S. Patent No. 6,654749 to Nashed.

a. As per claims 6 and 24, Scherr et al teaches the claimed invention as described above. However, Scherr et al fails to teach wherein requesting an updated portion of said web-page comprises formulating a database query to be carried out by a database engine.

Nashed teaches a method and system for searching indexed information databases with automatic user registration via a communication network. Furthermore, Nashed teaches wherein requesting an updated portion of said web-page comprises formulating a database query to be carried out by a database engine (See col. 9, lines 11-17)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein requesting an updated portion of said web-page comprises formulating a database query to be carried out by a database engine as taught by Nashed in the claimed invention of Scherr et al in order to provide the new web page (See col. 9, line 18).

8. Claims 7, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6, 799248 to Scherr et al in view of U.S. Patent No. 6,449,636 to Kredo et al.

a. As per claims 7, 17 and 25, Scherr et al teaches the claimed invention as described above. However, Scherr et al fails to teach wherein said web-page comprises, in addition to said updated portion, a plurality of constituent portions and said method further comprises providing an assembly script containing instructions for assembling said constituent portions and said updated portion into said web-page.

Kredo et al teaches a system and method for creating a dynamic data file from collected and filtered web pages. Furthermore, Kredo et al teaches wherein said web-page comprises; in addition to said updated portion, a plurality of constituent portions and said method further comprises providing an assembly script containing instructions for assembling said constituent portions and said updated portion into said web-page (See col. 4, lines 15-19)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate said web-page comprises, in addition to said updated portion, a plurality of constituent portions and said method further comprises providing an assembly script containing instructions for assembling said constituent portions and said updated portion into said web-page as taught by Kredo et al in the claimed invention of Scherr et al in order to extract information an incorporate the extracted information in a single web page (See col. 1, lines 18-20).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply

is filed within TWO MONTHS of the mailing date of this final action and the advisory action is

not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878.

The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.
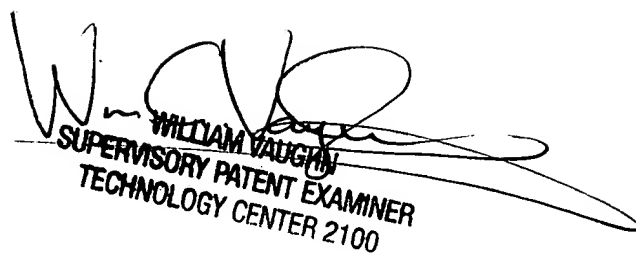
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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Djenane Bayard

Patent Examiner

SUPERVISORY PATENT EXAMINER
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